IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO. 786 OF 1990

Shri. Anandrao Dhansingrao Jadhav,
An Agriculturist, Residing at
Village Mandave, Taluka Satara,
District : Satara. ... Petitioner

Vs.

1. Shri. Bhaskarrao Balasaheb Deshmukh,
2. Shri. Balasing Balasaheb Deshmukh,
3. Shri. Shankarrao Balasaheb Deshmukh,
Nos. 1 to 3 are Agriculturists,
Residing at Village Mandve,
Taluka Satara, District Satara.

4. Smt.Suman Balasaheb Patankar,
Occupation : Household, residing
at Village Ker, Post Pimpalshi,
Taluka : Patan, District Satara.

5. Smt. Sushilabai Krishnarao Patankar,
Occupation : Household work,
Residing at Mandave,Taluka Satara,
District : Satara.

6. The Maharashtra Revenue Tribunal,
Pune, Notice tobe served upon the
Registrar, Maharashtra Revenue
Tribunal, Secretariate Annexed Building,
Bombay 400 001. ... Respondents

Mr. P.J. Shinde for Petitioner.

Mr. R.G. Ketkar for Respondent Nos. 1 to 3.

Mr. D.A. Patil, A.G.P. for Respondent No. 6.

CORAM : F.I. REBELLO,J.
DATED : JANUARY 11, 2005

ORAL JUDGMENT

1. The Petitioner claims as adopted son of Dhansingrao. The Petitioner filed Regular Suit being Suit No. 34 of 1972 for declaration that the sale deed executed by his adoptive father Dhansingrao in favour of the Defendant No. 1 was

bogus, void and illegal. The Respondent No. 1 in that suit raised a plea that he was tenant of the said land. Consequent thereto matter was referred to the Authorities under the Tenancy Act. On the consideration of the material before it, Tahsildar was pleased to hold that the Respondent No. 1 was not lawful tenant of the suit land on or before 9.1.1969.

2. Aggrieved by this order dated 9.7.1976, Respondent No. 1 preferred an appeal before the Sub Divisional Officer, Satara who by order dated 29.10.1994 was pleased to allow the appeal and set aside the order of the Tahsildar. Further finding was recorded that Respondent Nos. 1 and 2 has proved that he was a tenant in possession of the lands described in plaint Para No. 1 (a) prior to their alienation under the sale deed dated 9.1.1969. The Petitioner aggrieved preferred revision Application. That came to be disposed of by the impugned order dated 4.3.1989. The Petitioner aggrieved has preferred the present petition.

3. At the hearing of this petition, on behalf of the Petitioner, learned counsel submits that the Revisional Authority could not have reappreciated the evidence. That would amount to excess of jurisdiction and on that count itself, the impugned

order is liable to be set aside. It is further submitted that the documents which were rejected by the Tahsildar as being suspicious have been considered by the Revisional Authority which ought not to have been considered and on this count also the impugned order is liable to be set aside.

4. It is no doubt true that the Tahsildar had rejected the contention of the Respondent No. 1 as to tenancy of the suit land. However, the appellate authority in the appeal preferred by Respondent No. 1 has listed the various documents numbering altogether eight on which Respondent No. 1 relied on his case. The learned appellate authority held that the documentary evidence produced by Respondent No. 1 and the admission of the original landlord was sufficient, convincing and cogent to prove the claim of tenancy of the appellant prior to 9.1.1969 and accordingly reversed the judgement of the Tahsildar and allowed the appeal. The Petitioner aggrieved preferred revision application. The Revisional Authority considered various contentions argued before it including that the lease deed showed some scoring and erasures and original lease was not forthcoming and also contention raised in respect of the other documents. After having so considered the contentions, the learned revisional authority was pleased to hold that there was a lease deed in

respect of the two suit lands 60/4 and 77/4B dated 21.4.1969 which were not included in the sale deed dated 9.1.1969 and there was no evidence to disbelieve the registered sale deed. The learned tribunal further held that there was lease deed, rent receipts, statement given by the adopted father Dhansingh, mutation entries concerning the Bhade Patta, there is other corroboration on record in support of the tenancy and dismissed the revision application.

5. These are purely findings of fact on appreciation of evidence. There is no error of law apparent on the fact of record whether in the order of the appellate authority or the revisional authority. Apart from that all documents have been considered. Therefore, this is not a case of non consideration of documents. The criticism on the judgment on the ground that the original lease deed not have been produced, was answered by the tribunal by holding that the certified copy of the lease deed was issued by the Tahsildar himself. Considering once again that these are purely matters on appreciation of evidence, this will not be a fit case to exercise the extra ordinary jurisdiction of this Court. Hence, rule discharged. No order as to costs.

(F.I. REBELLO,J.)